

REMARKS

The following is in response to the Office communication mailed October 1, 2004 in the above-identified application.

Claims 36 to 49 and 54 have been rejected as being unpatentable over Sulc et al U.S. Patent 5,270,415 (hereinafter Sulc et al) under 35 U.S.C. 103(a). Applicant traverses this rejection.

The present claims are directed to contact lenses which comprise lens bodies

In independent claim 36, the lens body comprises a silicon-containing crosslinked polymer material which is water swellable and a polymeric material, other than the crosslinked polymer material. The polymeric material is selected from water soluble polymeric materials, water swellable polymeric materials and mixtures thereof, and is distributed in the silicon-containing crosslinked polymer material. Advantageously, the polymeric material is immobilized by the silicon-containing crosslinked polymer material (claim 37) or physically immobilized by the silicon-containing crosslinked polymer material (claim 38).

In independent claim 50, the lens body comprises a composition including a crosslinked polymer material which is water swellable and a polymeric material, other than the crosslinked polymer material. The polymeric material is selected from water soluble polymeric materials, water swellable polymeric materials and mixtures thereof. The lens body exhibits increased retention of water relative to a substantially identical lens body without the polymeric material. Claim 54, which is dependent on claim 50 and has been rejected by the Examiner, recites that the crosslinked polymer material comprises a silicon-containing crosslinked polymer component.

Sulc et al discloses a hydrophilic contact lens made from a balanced charge polymer. Sulc et al discloses that the balanced charge polymer is provided by the polymerization of two monomers, a cationic/anionic conjugate monomer and a nonionic monomer. Sulc et al discloses that an acidic monomer and a basic monomer

are reacted to form the conjugate monomer which is then polymerized with the nonionic monomer. Thus, Sulc et al discloses a contact lens made from a single copolymer material.

Sulc et al does not disclose, teach or suggest the present invention. For example, Sulc et al does not disclose, teach or even suggest a contact lens comprising a lens body which comprises a composition including a silicon-containing crosslinked polymer which is water swellable and a polymeric material, other than the crosslinked polymer material, selected from water soluble polymeric material, water swellable polymeric materials and mixtures thereof, as recited in independent claim 36.

In addition, Sulc et al does not disclose, teach or even suggest a contact lens comprising a lens body which comprises a composition including a crosslinked silicon-containing polymer component which is water swellable and a polymeric material, other than the crosslinked polymer component, selected from water soluble polymeric materials, water swellable polymeric materials and mixtures thereof in which the lens body exhibits increased retention of water relative to a substantially identical lens body without the polymeric material, as recited in rejected claims 54.

The Examiner contends that it would be obvious to consider that the acidic monomer and the basic monomer disclosed by Sulc et al can be copolymerized in a separate first step for producing a polymer material such that the produced polymer material would be distributed in the polymerization medium because Sulc et al discloses a polymerization of the cationic-anionic polymer pair before adding any other ingredients to the polymerization medium.

At column 4, lines 15 to 21, Sulc et al discloses that it is preferred to combine both components of the cationic-anionic monomer pair before adding any of the other ingredients to the polymerization medium since this will provide better control over the operation of forming the balanced charge conjugate. Applicant submits that the conjugate described by Sulc et al

cannot reasonably be considered to be a polymer. For example, Sulc et al refers to a mixture including the conjugate and other monomer(s) as a monomer mixture (see, for example, Sulc et al at column 4, lines 22 to 49). Further, Sulc et al does not refer to the conjugate as a polymer.

Simply put, the final composition produced by Sulc et al involves a single polymer material. In contrast, as recited in the presently rejected claims, the present invention is directed to contact lenses which comprise lens bodies which comprise compositions including a silicon-containing crosslinked polymer material or component and a polymeric material, other than the polymer material or component. The passage of Sulc et al cited by the Examiner provides that the balanced charge conjugate, a component referred to as a monomer by Sulc et al, is controllably produced.

To a large extent, Sulc et al actually teaches away from the present invention. Thus, Sulc et al discloses the formation of contact lenses including a single polymer material. In contrast, as recited in the presently rejected claims, the present lens bodies include a silicon-containing crosslinked polymer material which is water swellable and a polymeric material other than the crosslinked polymer material. Thus, applicant submits Sulc et al is substantially deficient with regard to the present claims.

In view of the above, applicant submits that the present claims, and in particular claims 36 to 49 and 54, are unobvious from and patentable over Sulc et al under 35 U.S.C. 103(a).

Claims 50 to 53 and 55 to 64 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 15 of U.S. Patent No. 6,372,815.

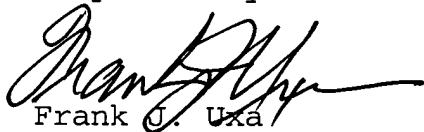
Submitted herewith is a Terminal Disclaimer, and required fee, disclaiming the terminal portion of any patent issuing from the above-identified application which extends beyond the full term of U.S. Patent No. 6,372,815. Applicant submits that this Terminal Disclaimer, and required fee, overcome the above-noted

double patenting rejection. Therefore, applicant respectfully requests that this double patenting rejection be withdrawn.

Each of the present dependent claims is separately patentable over the prior art. For example, none of the prior art, taken singly or in any combination, disclose, teach or even suggest the present contact lenses including the additional feature or features recited in any of the present dependent claims. Therefore, applicant submits that all of the present claims are separately patentable over the prior art.

In conclusion, applicant has shown that the present claims are patentable over the prior art under 35 U.S.C. 103(a). In addition, applicant has submitted a Terminal Disclaimer, and required fee, and respectfully requests that the obviousness-type double patenting rejection be withdrawn. In view of the above, applicant submits that the present claims, that is claims 36 to 64, are allowable and respectfully requests the Examiner to pass the above-identified application to issuance at an early date. Should any matters remain unresolved, the Examiner is requested to call (collect) applicant's attorney at the telephone number given below.

Respectfully submitted,



Frank J. Uxa  
Attorney for Applicant  
Reg. No. 25,612  
4 Venture, Suite 300  
Irvine, CA 92618  
(949) 450-1750  
Facsimile (949) 450-1764

FJUxa/ac